

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

GLADYS E. BOUDOIN,

Plaintiff,

vs.

TRANSPORTATION SECURITY  
ADMINISTRATION, *et al.*,

Defendants.

Case No. 2:07-CV-00019-PMP-GWF

**FINDINGS AND  
RECOMMENDATION**

On January 8, 2007, Plaintiff filed her Motion for Leave to Proceed *In Forma Pauperis*. (Dkt. #1). On January 23, 2007, the Court granted Plaintiff leave to proceed *in forma pauperis* and ordered that the Clerk of the Court should file the Complaint. (Dkt. #3). A month later, on February 23, 2007, Plaintiff filed an Amended Complaint naming the Transportation Security Administration and United Airlines as parties. (Dkt. #4). Over a year and a half later, in October 2008, Plaintiff had yet to file proof with the Court that Defendants had been properly served. As a result, the Court issued a Notice to Plaintiff of the Court's Intention to Dismiss Pursuant to Fed. R. Civ. P. 4(m) if proof of proper service was not filed on or before November 5, 2008. (Dkt. #11).

Plaintiff responded through correspondence filed on October 14, 2008, requesting that her case not be dismissed as she had attempted proper service through the U.S. Marshall's office. (Dkt. # 12). On December 16, 2008, Plaintiff filed two Process Receipt and Return forms from the U.S. Marshall, which purported to offer proof of proper service of United Airlines (Dkt. #13) and the Transportation Security Administration (Dkt. #14). However, Plaintiff's pleadings fail to demonstrate proper service of TSA under the requirements of Fed. R. Civ. P. 4(i)(1)-(2) or proper service of United Airlines under Fed. R. Civ. P. 4(h). (See Dkt. #13, Dkt. #14). As a result, to date, Plaintiff has not provided proper

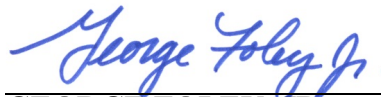
1 service of the defendants within the allotted time period under Fed. R. Civ. P. 4(m) and the time  
2 allowed for service has expired. Accordingly,

3 **IT IS HEREBY RECOMMENDED** that this action should be **dismissed** without prejudice  
4 based on Plaintiff's failure to properly serve Defendants within the time frame set forth in  
5 Fed. R. Civ. P. 4(m).

6 **NOTICE**

7 Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in  
8 writing and filed with the Clerk of the Court within ten (10) days. The Supreme Court has held that the  
9 courts of appeal may determine that an appeal has been waived due to the failure to file objections  
10 within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1)  
11 failure to file objections within the specified time and (2) failure to properly address and brief the  
12 objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues  
13 from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi*  
14 *Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

15 DATED this 11th day of March, 2009.

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18 **GEORGE FOLEY, JR.**  
19 **UNITED STATES MAGISTRATE JUDGE**  
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